

CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY ACT (CIPSEA)

Issue:

APPLICATION OF CIPSEA TO STATE ES-202

In response to a California request for a legal determination on a specific request for sharing of industry employment data, the BLS issued an LMI Administrative Memorandum that freezes all state data sharing arrangements of confidential employer data until the BLS sets a new policy for reviewing new agreements.

Analysis:

The Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 specifies that BLS and the states that collect the statistical data must protect confidential data. BLS had previously believed that employer tax data (ES-202) that is processed by the states' LMI shops would be exempt from CIPSEA. However, after further review, BLS concluded that the tax data content is enhanced by survey data, which is clearly covered by CIPSEA. Therefore, since the data are "intermingled," the ES-202 data are confidential and the BLS must review all data sharing agreements.

CIPSEA also states that it does not pre-empt state confidentiality laws. However, legal counsel indicates that this usually means that CIPSEA cannot be less rigorous than state law.

The BLS Administrative Memorandum requested that states provide a listing and the contracts associated with data sharing agreements. In California, local governments are allowed by law to get confidential employment information if it is used for economic planning purposes. California submitted a list that included 30 entities. There are also eight data sharing requests that are currently held in abeyance pending the BLS' new policies and procedures.

Current Actions:

BLS is reviewing listings submitted by each of the State LMI programs to develop policies and procedures related to this new interpretation of CIPSEA.